

Remarks :

- 1) It should be noted that the phrases used in the definition of identity software, that is, "with no protection against unauthorised use" in claim 1, third paragraph, line 2 and "with no individual and effective protection ...against unauthorised use" in claim 12, third paragraph, lines 1, 2 are being deleted because they are no longer necessary in the claims as amended and if the identity software as defined by claims 1, 12 as amended is protected against unauthorised use, the authorising software as defined by claims 1, 12 as amended can not discourage the user from enabling or allowing other person(s) to use the protected software or a duplication copy thereof, and this is required by the amended claims 1, 12, for which details will be discussed herein below.
- 2) In the Final Office Action, P.2, item 1c), claims 1-7 and 9-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Ananda('645) .

In support of the rejections, the Examiner states, in the Final Office Action, P.2, item 3, that my arguments(response to First Office Action) filed on 18 Aug., 97 are not deemed to be persuasive for the reasons that a) "the rightful user make copies of ... software available" is probably the most prevalent form of unauthorised software distribution and b) "claim 12 specifies purchase and rental of software program is (as disclosed by Ananda) is merely a time-limited purchase".

The rejections are respectfully traversed.

The independent claims are being amended to better define the invention but without introducing any new issue. After the amendment, the independent claims 1, 12, 17 claim authorising software(claims 1) or protection software which comprises authorising software and identity software(claim 12) or authorising program(claim 17), stored in a device or existing physically on a medium, for use on a computer to protect other commercial computer software by discouraging a user thereof from enabling or allowing other person(s) to use the protected software or a

duplication copy thereof.

The authorising software and identity software of claim 1, or protection software of claim 12, or authorising program of claim 17, conforming to an existing standard so that it/they can be used on a computer which also conforms to that existing standard and without modification thereof.

The authorising software(claim 1, 12) or authorising program(claim 17) being for, when executed, authorising use of the protected software on the computer.

The identity software(claims 1 or 2) or means for providing(claim 17) is for providing identity information of that user.

The identity information being for to be authenticated by a remote computer in order for operation(s) for which that user has to be responsible, to be performed.

Claim 1 as amended, claims the authorising software and, in particular, specifies that the authorising software also for determining the presence of an identity software on the standard computer and also that use of protected software on the standard computer will be authorised if the identity software is determined as being present on the standard computer.

Claim 12 as amended, claims a protection software comprising the authorising software and identity software and, in particular, specifies that they are contained in the protection software in such a manner that the authorising software is prevented from being copied therefrom individually ; and that the protected software is a purchased software .

Claim 17 as amended, claims the authorising program and, in particular, specifies that information representative of an encryption algorithm used in the means for providing identity information, exists in the authorising program and being accessible or when the authorising software being executed, usable by the user thereof.

Whether the present invention as defined by independent claims 1, 12, 17, anticipated by Ananda ?

A user, in general, will not copy or provide his/her identity software(claims 1, 12) or means for providing his/her identity information(claim 17) to someone else, in order to protect himself/herself from having to take the responsibility of operation(s) caused by that someone else, even though the user may do this provided that both of them have a good enough relationship for him/she to do so.

Thus, the present invention as defined by a) claim 1 as amended which requires "the presence of the identity software being used as a precondition by an authorising software for authorising use of protected software", b) claim 12 as amended which requires "protection software comprising the authorising software and identity software and they are contained in the protection software in such a manner that the authorising software is prevented from being copied therefrom individually", c) claim 17 as amended which requires "information representative of an encryption algorithm used in the means for providing identity information, exists in the authorising program and being accessible or when the authorising program being executed, usable by the user thereof.", is capable of discouraging a user from allowing other person(s) to use his/her authorising software(claim 1 or claim 12, before and after this amendment) or authorising program(claim 17 as amended), and thereby, discouraging a user thereof from enabling or allowing other person(s) to use the protected software or a duplication copy thereof, and this is neither disclosed or suggested or described by Ananda's claims.

Ananda, as readable on all the claims thereof, describes a method of securely renting software, and as readable on claim 1, merely teaches of permitting continuous execution of application software in a first computer if authorisation is obtained from a second computer continuously, and execution will be terminated if otherwise. Claim 11 claims a similar method and in particular, specifies a rental application comprising a header program for, when being executed, transmitting from the first computer a

password verification request comprising a system time, to the second computer, and the second computer will return a dynamic password in response, and the header program terminates the rental application if the dynamic password received does not match another dynamic password it generated using that system time previously. And, the purpose of the invention is readable on col. 23, lines 44-53, "The invention enables ... monitor the time period when a particular application software is executed by a user record the pertinent information regarding the execution of application software for billing and accounting purpose".

There is no software in Ananda's claimed invention which can meet the requirement of identity software of claims 1, 12(before and after this amendment) or identity program of claim 17 as amended. Ananda's claims merely mention of a password verification request comprising a system time and there has no description in Ananda's claims as to whether user's identity has to be authenticated and if it has to be, in what way this should be done.

Whether the present invention as defined by independent claims 1, 12, 17, could be met , if a prior art identity software/means for providing identity information, was to be applied to Ananda ?

a) Claim 1

If a prior art identity software was to be applied to Ananda's rental system for providing identity information of a user, then identity information should be for to be authenticated by the second computer in order for a) rental payment to be made from that user's account or billing that user thereafter, b) the second computer to return a authorisation(i.e., the dynamic password) in response, and as the authorisation of use of protected software requires use of the prior art identity software, the resulted rental system did meet the requirement of "the presence of the identity software is being used as a precondition by an authorising software for authorising use of protected software" as readable on claim 1 as amended. Even so, this identity software of the

resulted rental system was being used to provide identity information of a user, for causing operation(s) such as making payment from that user account for software rental or the like, which being a user responsible operation, in order that use of the application software be authorised, therefore, the requirement of claim 1 as amended, that is, "the presence of the identity software is being determined without actually using the identity software to cause operation(s) for which that user has to be responsible, and a favourable determination result being used as a precondition by an authorising software for authorising use of the protected software", is not met by Ananda.

There has no description in Ananda's claims which suggests or discloses that the rental software or software can be protected by receiving authorisation from the second computer but without causing a user responsible operation such as making payment from that user's account. The present invention as defined by claim 1 as amended can provide protection to purchased software and rental software by discouraging a user thereof from enabling or allowing other person(s) to use the protected software or a duplication copy thereof, after payment being made.

b) Claim 12

Even if a prior art identity software was to be applied to Ananda's rental system, and be included into the header program as an inseparable part thereof, so that the requirement of claim 12(before and after this amendment), that is, "the authorising software and identity software are contained in software in such a manner that the authorising software is prevented from being copied therefrom individually" is being met. The resulted rental system could still not meet claim 12(before and after this amendment), for the following reasons :

It is respectfully submitted that, it is not readable on Ananda's document that "the rental of software program" as disclosed therein is merely a time-limited purchase.

And, it is readable on the "OXFORD ENCYCLOPAEDIC ENGLISH DICTIONARY" that, "purchase" means "acquire by payment" or "buy", whereas "rent" means "payment for use of a service, equipment, etc.". Accordingly, rental of a program can only be regarded as a purchase of right of time-limited use thereof, and the ownership thereof is not being transferred. And, to purchase a program of limited using time or to purchase the right of time-limited use of a program(i.e. rent) are completely different, in the former case the purchaser obtains the ownership of the program, although it may not be usable after a predetermined period of time, and in the latter case, the purchaser merely obtains the right of limited use and should return the program to its owner thereafter.

Further, as readable on independent claims 1, 8, 11 of Ananda, the rental software will be terminated on a first/user computer if authorisation or the like is not obtained from a second/remote computer. In other words, whether a user can continue to use a rental software or not depends on whether the user can obtain further authorisations or the like from the second computer which being not under his/her control, and therefore, even if the claimed software was not being indicated as "rental", it could not be a purchased software because a owner should have the right to use his/her software without authorisation from other party.

Ananda patent, as discussed above, is directed to using the second computer to "monitor the time period when a particular application software is executed by a user for billing and accounting purpose", and there has no description in Ananda's claims which suggests or discloses that use of the rental software can be permitted without authorisation(s) from the second computer or the second computer should be under complete control of the user to provide the authorisation(s), so as to protect purchased software, and "protection of purchased software" as required by claim 12(before and after this amendment) is not being met by Ananda.

It would also not have been obvious to one with ordinary skill in the art, upon study of the cited prior art as a whole, to protect software(i.e. authorising software and

purchased commercial software) against piracy copying, by means of another software(i.e., identity software), and both are equally duplicable and transferable. And, the requirement of claim 12(before and after this amendment) that "identity software and authorising software be contained in a software in such a manner that the authorising software is prevented from being copied therefrom individually", discourages a user from allowing other person(s) to use his/her authorising software, and thereby, protecting the protected software, as mentioned above.

Chernow et al. merely teach of, as read on col. 4, lines 24-36, embedding the exact physical location of a purchased software, the exact time and date the software was stored, the serial # of the operating system on a hard/floppy disk which stores the software, and when later the software is put to use, it will determine if parameters of the computer on which it runs agree with the embedded information, and will not run or erase itself if not being agree with.

Grantz et al. merely teach of, as read on claim 1, a method for providing a predetermined delay before commencement of a designated test period of software product(s), and a password has to be entered by user in order to begin the test period.

Stringer et al., as read on col. 9, line 43-col.10 line 1, merely teach of, with no mention therein as to how payment is being made, a method which being given to a disabled product for generating a product identification number and displayed the number to a user so that the user can use it to obtain an enable code through telephone, for enabling the disabled product or additional trial use.

c) Claim 17

Even if a prior art means for providing identity information, was to be applied to Ananda's claimed rental system, the present invention as defined by claim 17(before and after this amendment), cannot be met, for the following reasons :

It is not possible for one with ordinary skill in the art to use an encryption algorithm used by a prior art means for providing identity information, in Ananda's authorising program, i.e., the header program, for generating encrypted commands to authorise use of protected software, as required by claim 17(before and after this amendment). For the reason that, the prior art means was to be used by the user himself/herself unlimitedly and without restriction, and if the same algorithm was to be used for authorising use of protected software, then the prior art means could be used as an authorising means for authorising use of the protected software unlimitedly and with no restriction, and the rental software could not be protected from unauthorised use so as for receiving rental payment.

On the other hand, if the same encryption algorithm was to be used by the prior art means for providing identity information, and by the header program for generating encrypted commands to authorise use of protected software in the rental system resulted, then in Ananda's authorising program, i.e., the header program, that same algorithm should not be accessible or when the header program being executed, usable by a user, otherwise the user might use it for authorising use of the protected rental software unlimitedly and without making any payment therefor. The requirement of claim 17 as amended, that is, "Information representative of the algorithm for providing identity information exists in the authorising program and being accessible or when the authorising program being executed, usable by the user thereof", so as to discourage the user from copying the authorising software to other person, as mentioned above, is not being met by Ananda's header program.

Finally, there has no description in Ananda's claims which suggests or discloses "including information representative of an encryption algorithm used by a prior art means for providing identity information, in a prior art authorising program such as Ananda's header program, and having that information representative of an encryption algorithm to be accessible or usable by the user thereof", as that required by claim 17 as amended, but that algorithm is not the algorithm being used for

-authorisation of use of the protected software.

Accordingly, withdrawal of the rejections of claims 1, 12, 17 under 35 U.S.C. 102(e) as being anticipated by Ananda('645) are respectfully requested.

Date: Feb.,10, 98.

Respectfully submitted,

Ho Keung, Tse.

A handwritten signature in black ink, appearing to read "Ho Keung, Tse." The signature is written in a cursive style with a horizontal line underneath it.